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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,759	09/10/2003	Mark Dillon	3049-0133P	3926

2292 7590 06/06/2007
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EXAMINER

SPAHN, GAY

ART UNIT	PAPER NUMBER
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3635

NOTIFICATION DATE	DELIVERY MODE
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06/06/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/658,759

Applicant(s)

DILLON ET AL.

Examiner

Gay Ann Spahn

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-14 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14 and 16-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the

(1) "vehicle" as specifically recited in all claims,

(2) "leveler lip . . . for extending into a vehicle" (emphasis added) as specifically recited in all claims,

(3) "clearance space . . . adapted to selectively receive the leveler lip of the leveler when the leveler lip is pivoted downwardly to be positioned within the clearance space for facilitating the loading and unloading of a vehicle when the vehicle is full and the leveler lip is not able to be lowered into the vehicle" (emphasis added) as specifically recited in all claims,

(4) "bottom draft plug movably positioned within said clearance space for normally sealing a lower portion of said clearance space and for selectively being displaced from said lower portion for removing debris disposed within said clearance space" (emphasis added) as specifically recited in claims 4 and 14,

(5) "first elastic cord member . . . second elastic cord member . . . for selectively raising said bottom draft plug into said lower position for reducing air infiltration within said clearance space" (emphasis added) as specifically recited in claims 10 and 20,

(6) "bottom draft plug may be selectively pushed down out of said clearance space by at least one of a lower leveler lip and a manual tool to allow debris disposed

within said clearance space to drop out" (emphasis added) as specifically recited in claim 21,

must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because:

(1) Fig. 2, it is not clear why the first and second bumper (32 and 34) are not shown (or are they simply not labeled as such) and if they have been removed for clarity of view, this should be so stated;

(2) Fig. 4, it is not clear where the leveler (130) is in relationship to the bottom pad assembly (10) of Figs. 1 and 2;

(3) Fig. 5, the directional arrows in the middle of the figure should be labeled with a lead line leading to a reference numeral and explained in the specification; and

(4) Fig. 6, the upward directional arrow above the first flange member (146) should be labeled with a lead line leading to a reference numeral and explained in the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The title of the invention is not descriptive. *A new title is required that is clearly indicative of the invention to which the claims are directed* (i.e., the patentable feature of the invention).

Claim Objections

Claim 1 is objected to because of the following informalities:

(1) **claim 1**, line 5, the word "a" should be inserted between the words "to" and "second" for proper grammar.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4, 6-14, and 16-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 1-2, the recitation of "A bottom pad assembly" (i.e., a subcombination) in the preamble is vague, indefinite, and confusing because at lines 9-

Art Unit: 3635

12, the body of the claim has been amended to recite the leveler which is part of the combination, but the preamble has not been amended to reflect that the combination is now being claimed (i.e., it is not clear whether Applicants are intending to claim the combination or the subcombination).

Claim 1, lines 5-6, the recitation of “a dock opening” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this dock opening is the same as the “dock opening” introduced in lines 3-4.

Claim 1, line 8, the recitation of “a vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2.

Claim 1, line 8, the recitation of “a loading dock” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this loading dock is the same as the “loading dock” introduced in line 2.

Claim 1, line 9, the first and second recitation of “a vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2 or the “vehicle” recited in line 8.

Claim 1, line 10, the recitation of “a loading dock” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this loading dock is the same as the “loading dock” introduced in line 2 or the “loading dock” recited in line 8.

Claim 1, line 11-12, the recitation of “a vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2 or the “vehicle” recited in lines 8 and 9.

Claim 1, line 13, the recitation of “a clearance space” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if the clearance space is the same structure as the “bottom opening” introduced in line 1.

Claim 1, line 13, the recitation of “a loading dock” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this loading dock is the same as the “loading dock” introduced in line 2 or the “loading dock” recited in lines 8 and 10.

Claim 1, line 16, the recitation of “a vehicle” and the recitation of “the vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2 or the “vehicle” recited in lines 8, 9, and 11-12.

Claim 1, line 17, the recitation of “the vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2 or the “vehicle” recited in lines 8, 9, 11-12, and/or 16.

Claim 1, lines 16-17, the recitation that “the leveler lip is not able to be lowered into the vehicle” is vague, indefinite, and confusing because it is not understood why the leveler lip is not able to be lowered into the vehicle.

Claim 2, line 2 and line 3, the recitation of “a loading dock” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this “loading dock” is the same as the “loading dock” introduced in line 2 of claim 1 or the “loading dock” recited in lines 8, 10, and/or 13 of claim 1.

Claim 3, line 4, the recitation of “a vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2 of claim 1 or the “vehicle” recited in lines 8, 9, 11-12, 16 and/or 17 of claim 1.

Claim 3, line 5, the recitation of “a loading dock” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this “loading dock” is the same as the “loading dock” introduced in line 2 of claim 1 or the “loading dock” recited in lines 8, 10, and/or 13 of claim 1.

Claim 3, line 5, the recitation of “a space” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this space is the same as the “clearance space” introduced on line 13 of claim 1.

Claim 7, line 5, the recitation of “a vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2 of claim 1 or the “vehicle” recited in lines 8, 9, 11-12, 16 and/or 17 of claim 1.

Claim 7, line 5, the recitation of “a loading dock” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this “loading dock” is the same as the “loading dock” introduced in line 2 of claim 1 or the “loading dock” recited in lines 8, 10, and/or 13 of claim 1.

Claim 10, line 4, the recitation of “said lower position” is vague, indefinite, and confusing as lacking antecedent basis and the examiner wonders if this should be changed to --said lower portion of said clearance space--.

Claim 11, lines 1-2, the recitation of “A bottom pad assembly” (i.e., a subcombination) in the preamble is vague, indefinite, and confusing because at lines 6-9, the body of the claim has been amended to recite the leveler which is part of the combination, but the preamble has not been amended to reflect that the combination is now being claimed (i.e., it is not clear whether Applicants are intending to claim the combination or the subcombination).

Claim 11, line 3, the recitation of “an opening” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this opening is the same as the “bottom opening” introduced on line 1.

Claim 11, line 3, the recitation of “a loading dock” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this loading dock is the same as the “loading dock” introduced in line 2.

Claim 11, line 4, the recitation of “a loading dock” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this loading dock is the same as the “loading dock” introduced in line 2 and/or the “loading dock” recited on line 3.

Claim 11, line 5, the recitation of “a vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2.

Claim 11, line 5, the recitation of “a loading dock” is vague, indefinite, and confusing because it is not clear if this loading dock is the same as the “loading dock” introduced in line 2 and/or the “loading dock” recited on lines 3 and 4.

Claim 11, line 6, the first and second recitation of “a vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2 or the “vehicle” recited in line 5.

Claim 11, line 7, the recitation of “a loading dock” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this loading dock is the same as the “loading dock” introduced in line 2 or the “loading dock” recited in lines 3, 4, and 5.

Claim 11, lines 8-9, the recitation of “a vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2 or the “vehicle” recited in lines 5 and 6.

Claim 11, line 10, the recitation of “a clearance space” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if the clearance space is the same structure as the “bottom opening” introduced in line 1.

Claim 11, line 10, the recitation of “a loading dock” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this loading dock is the same as the “loading dock” introduced in line 2 or the “loading dock” recited in lines 3, 4, 5, and 7.

Claim 11, line 13, the recitation of “a vehicle” and the recitation of “the vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2 or the “vehicle” recited in lines 5, 6, and 8-9.

Claim 11, line 14, the recitation of “the vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2 or the “vehicle” recited in lines 5, 6, 8-9, and/or 13.

Claim 11, lines 13-14, the recitation that “the leveler lip is not able to be lowered into the vehicle” is vague, indefinite, and confusing because it is not understood why the leveler lip is not able to be lowered into the vehicle.

Claim 12, line 2 and line 3, the recitation of “a loading dock” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this “loading dock” is the same as the “loading dock” introduced in line 2 of claim 11 or the “loading dock” recited in lines 3, 4, 5, 7, and/or 10 of claim 11.

Claim 13, line 4, the recitation of “a vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2 of claim 11 or the “vehicle” recited in lines 5, 6, 8-9, 13, and/or 14 of claim 11.

Claim 13, line 5, the recitation of “a loading dock” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this “loading dock” is the same as the “loading dock” introduced in line 2 of claim 11 or the “loading dock” recited in lines 3, 4, 5, 7, and/or 10 of claim 11.

Claim 13, line 5, the recitation of “a space” is vague, indefinite, and confusing because it is not clear if this space is the same as the “clearance space” introduced on line 10 of claim 11.

Claim 17, line 5, the recitation of “a vehicle” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this vehicle is the same as the “vehicle” introduced in line 2 of claim 11 or the “vehicle” recited in lines 5, 6, 8-9, 13, and/or 14 of claim 11.

Claim 17, line 5, the recitation of “a loading dock” is vague, indefinite, and confusing for lack of antecedent basis because it is not clear if this “loading dock” is the same as the “loading dock” introduced in line 2 of claim 11 or the “loading dock” recited in lines 3, 4, 5, 7, and/or 10 of claim 11.

Claim 20, line 4, the recitation of “said lower position” is vague, indefinite, and confusing as lacking antecedent basis and the examiner wonders if this should be changed to --said lower portion of said clearance space--.

Claim 21, lines 1-4, the recitation that “said bottom draft plug may be selectively pushed down out of said clearance space by at least one of a lower leveler lip and a manual tool to allow debris disposed within said clearance space to drop out” (emphasis added) is vague, indefinite, and confusing because the recitation of “may be” in line 2 makes it unclear as to whether the bottom draft plug is in the clearance space or is not in the clearance space.

Further, it is not understood what is meant by “a lower leveler lip.” Is there another leveler lip besides the lip portion (134) shown in Fig. 4 or is Applicant trying to recite a lower portion of the lip (134)?

Also, it is not understood what is meant by "a manual tool"? What does this manual tool look like (i.e., what is the structural configuration of the manual tool) and how does it push down the bottom draft plug out of the clearance space?

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6-9, 11-13, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over LAYNE (U.S. Patent No. 4,349,992) in view of ALEXANDER '397 (U.S. Patent No. 6,405,397).

As to claim 1, LAYNE discloses a bottom pad assembly for sealing a bottom opening formed when a vehicle is parked adjacent to a loading dock comprising:

a first mounting bracket (left bracket 22 in Fig. 3) adapted to be positioned adjacent to a first end of a dock opening (D);

a second mounting bracket (right bracket 22 in Fig. 3) adapted to be positioned adjacent to second end of a dock opening (D), the second end being displaced a predetermined distance relative to the first end;

a bottom pad (12) extending between the first mounting bracket and the second mounting bracket for engaging a rear portion of a vehicle (truck T) parked adjacent to a loading dock; and

a leveler (dock plate 20) for facilitating the loading and unloading of a vehicle (T) when a vehicle (T) is parked adjacent to a loading dock (B), said leveler (20) including a ramp portion (right of lug 26) and a lip portion (left of lug 26); and

a clearance space (25) formed between the bottom pad (12) and a loading dock (B), the clearance space (25) being adapted to selectively receive a downward portion (lug 26) of the leveler for facilitating the loading and unloading of a vehicle (T) when the vehicle (T) is full.

LAYNE fails to explicitly disclose that the leveler lip is pivotally mounted relative to the ramp portion on a distal end thereof for extending into a vehicle and that the clearance space is adapted to selectively receive the leveler lip of the leveler when the leveler lip is pivoted downwardly to be positioned within the clearance space for facilitating the loading and unloading of a vehicle when the vehicle is full and the leveler lip is not able to be lowered into the vehicle.

ALEXANDER '397 discloses a dock leveler (10) having a leveler lip (lip segments 45) which is pivotally mounted (@ 47) relative to the ramp portion (20) on a distal end thereof for extending into a vehicle (5, Fig. 4), wherein a clearance space (unnumbered, but between end of 20 and pad 40 in Fig. 3) is adapted to selectively receive the leveler lip (45) of the leveler (10) when the leveler lip (45) is pivoted downwardly to be positioned within the clearance space for facilitating the loading and unloading of a

vehicle (5) when the vehicle (5) is full and the leveler lip (45) is not able to be lowered into the vehicle (5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bottom pad assembly of LAYNE by making the leveler lip be pivotally mounted relative to the ramp portion on a distal end thereof for extending into a vehicle so that the clearance space is adapted to selectively receive the leveler lip of the leveler when the leveler lip is pivoted downwardly to be positioned within the clearance space for facilitating the loading and unloading of a vehicle when the vehicle is full and the leveler lip is not able to be lowered into the vehicle as taught by ALEXANDER '397 in order to keep the leveler lip protected in back of the pad to prevent damage from a vehicle backing into it.

As to claim 2, LAYNE in view of ALEXANDER '397 discloses the bottom pad assembly of claim 1 as discussed above, and LAYNE also discloses that said first mounting bracket (left 22) includes a first flange (horizontal flange of left bracket 22 in Fig. 5) adapted to be mounted on a loading dock and said second mounting bracket (right 22) includes a second flange (horizontal flange of right bracket 22 in Fig. 5) adapted to be mounted on a loading dock, said bottom pad (12) extending between said first mounting bracket (left 22) and said second mounting bracket (right 22).

As to claim 3, LAYNE in view of ALEXANDER '397 discloses the bottom pad assembly of claim 1 as discussed above, and LAYNE also discloses a first bumper (left 11) mounted adjacent to said first mounting bracket (left 22) and a second bumper (right 11) mounted adjacent to said second mounting bracket (right 22), said bottom pad (12)

extending outwardly from said first and second bumpers (11, 11) for providing a resilient engagement with a vehicle (T) parked adjacent to a loading dock (B) for sealing a space disposed therebetween.

As to claim 6, LAYNE in view of ALEXANDER '397 discloses the bottom pad assembly of claim 1 as discussed above, and LAYNE also discloses that said bottom pad (12) is vertically adjustable relative to said first mounting bracket (left 22) and said second mounting bracket (right 22).

As to claim 7, LAYNE in view of ALEXANDER '397 discloses the bottom pad assembly of claim 6 as discussed above, and LAYNE also discloses a bottom pad pan (21/16) for supporting said bottom pad (12), said bottom pad pan (21/16) extending between said first mounting bracket (left 22) and said second mounting bracket (right 22) and being mounted relative thereto for selective vertical movement for manually positioning said bottom pad (12) at a proper elevation relative to a vehicle (T) parked at a loading dock (B).

As to claim 8, LAYNE in view of ALEXANDER '397 discloses the bottom pad assembly of claim 7 as discussed above, and LAYNE also discloses that said bottom pad pan (21/16) includes a top angle (top of 16) and a bottom angle (bottom of 16), said top angle (top of 16) is mounted relative to an upper portion of said bottom pad (12) and said bottom angle (bottom of 16) is mounted relative to a lower portion of said bottom pad (12).

As to claim 9, LAYNE in view of ALEXANDER '397 discloses the bottom pad assembly of claim 7 as discussed above, and LAYNE also discloses a first flange

Art Unit: 3635

member (upper 16) secured to a first end (upper end) of said bottom pad pan (21/16) and a second flange member (lower 16) secured to a second end (lower end) of said bottom pad pan (21/16), said first flange member (upper 16) being adapted to be mounted relative to said first mounting bracket (left 22) and said second flange member (lower 16) being adapted to be mounted relative to said second mounting bracket (right 22).

As to claim 11, LAYNE discloses a bottom pad assembly for sealing a bottom opening formed when a vehicle is parked adjacent to a loading dock comprising:

a bottom pad (12) adapted to be positioned to span an opening (D) in a loading dock (B), said bottom pad (12) disposed relative to a floor surface of a loading dock (B) for engaging a rear portion of a vehicle parked adjacent to a loading dock (B);

a leveler (20) for facilitating the loading and unloading of a vehicle (T) when a vehicle (T) is parked adjacent to a loading dock (B), said leveler (20) including a ramp portion (right of 26 in Fig. 2) and a leveler lip (left of 26 in Fig. 2), wherein the leveler lip (right of 26 in Fig. 2) is located on a distal end of the leveler (20) relative to the ramp portion (left of 26 in Fig. 2) for extending into a vehicle (T); and

a clearance space (25) formed between the bottom pad (12) and a loading dock (B), said clearance space (25) is adapted to selectively receive a portion (26) of the leveler when the portion 26 of the leveler (20) is positioned within the clearance space (25) for facilitating the loading and unloading of a vehicle (T) when the vehicle (T) is full and the leveler (20) is not able to be lowered into the vehicle (T).

LAYNE fails to explicitly disclose that the leveler lip is pivotally mounted relative to the ramp portion on a distal end thereof for extending into a vehicle, wherein the clearance space is adapted to selectively receive a the leveler lip of the leveler when the leveler lip is pivoted downwardly to be positioned within the clearance space for facilitating the loading and unloading of a vehicle when the vehicle is full and the leveler lip is not able to be lowered into the vehicle.

ALEXANDER '397 discloses a dock leveler (10) having a leveler lip (lip segments 45) which is pivotally mounted (@ 47) relative to the ramp portion (20) on a distal end thereof for extending into a vehicle (5, Fig. 4), wherein a clearance space (unnumbered, but between end of 20 and pad 40 in Fig. 3) is adapted to selectively receive the leveler lip (45) of the leveler (10) when the leveler lip (45) is pivoted downwardly to be positioned within the clearance space for facilitating the loading and unloading of a vehicle (5) when the vehicle (5) is full and the leveler lip (45) is not able to be lowered into the vehicle (5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bottom pad assembly of LAYNE by making the leveler lip be pivotally mounted relative to the ramp portion on a distal end thereof for extending into a vehicle so that the clearance space is adapted to selectively receive the leveler lip of the leveler when the leveler lip is pivoted downwardly to be positioned within the clearance space for facilitating the loading and unloading of a vehicle when the vehicle is full and the leveler lip is not able to be lowered into the vehicle as taught

by ALEXANDER '397 in order to keep the leveler lip protected in back of the pad to prevent damage from a vehicle backing into it.

As to claim 12, LAYNE in view of ALEXANDER '397 discloses the bottom pad assembly of claim 11 as discussed above, and LAYNE also discloses a first mounting bracket (left 22) having a first flange (horizontal flange of left bracket 22 in Fig. 5) adapted to be mounted on a loading dock (B) and a second mounting bracket (right 22) having a second flange (horizontal flange of right bracket 22 in Fig. 5) adapted to be mounted on a loading dock (B), said bottom pad (12) extending between said first mounting bracket (left 22) and said second mounting bracket (right 22).

As to claim 13, LAYNE in view of ALEXANDER '397 discloses the bottom pad assembly of claim 12 as discussed above, and LAYNE also discloses a first bumper (left 11) mounted adjacent to said first mounting bracket (left 22) and a second bumper (right 11) mounted adjacent to said second mounting bracket (right 22), said bottom pad (12) extending outwardly from said first and second bumpers (11, 11) for providing a resilient engagement with a vehicle (T) parked adjacent to a loading dock (B) for sealing a space disposed therebetween.

As to claim 16, LAYNE in view of ALEXANDER '397 discloses the bottom pad assembly of claim 12 as discussed above, and LAYNE also discloses that said bottom pad (12) is vertically adjustable relative to said first mounting bracket (left 22) and said second mounting bracket (right 22).

As to claim 17, LAYNE in view of ALEXANDER '397 discloses the bottom pad assembly of claim 16 as discussed above, and LAYNE also discloses a bottom pad pan

(21/16) for supporting said bottom pad (12), said bottom pad pan (21/16) extending between said first mounting bracket (left 22) and said second mounting bracket (right 22) and being mounted relative thereto for selective vertical movement for manually positioning said bottom pad (12) at a proper elevation relative to a vehicle (T) parked at a loading dock (B).

As to claim 18, LAYNE in view of ALEXANDER '397 discloses the bottom pad assembly of claim 17 as discussed above, and LAYNE also discloses that said bottom pad pan (21/16) includes a top angle (top of 16) and a bottom angle (bottom of 16), said top angle (top of 16) is mounted relative to an upper portion of said bottom pad (12) and said bottom angle (bottom of 16) is mounted relative to a lower portion of said bottom pad (12).

As to claim 19, LAYNE in view of ALEXANDER '397 discloses the bottom pad assembly of claim 17 as discussed above, and LAYNE also discloses a first flange member (upper 16) secured to a first end (upper end) of said bottom pad pan (21/16) and a second flange member (lower 16) secured to a second end (lower end) of said bottom pad pan (21/16), said first flange member (upper 16) being adapted to be mounted relative to said first mounting bracket (left 22) and said second flange member (lower 16) being adapted to be mounted relative to said second mounting bracket (right 22).

Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over LAYNE (U.S. Patent No. 4,349,992) in view of ALEXANDER '397 (U.S. Patent

No. 6,405,397), as applied to claims 1 and 11, respectively, above, and further in view of ASHELIN ET AL. (U.S. Patent Application Publication No. 2002/0152562).

As to claims 4 and 14, LAYNE in view of ALEXANDER '397 discloses the bottom pad assembly of claims 1 and 11, respectively, as discussed above.

Neither LAYNE nor ALEXANDER '397 explicitly discloses a bottom draft plug movably positioned within said clearance space for normally sealing a lower portion of said clearance space and for selectively being displaced from said lower portion for removing debris disposed within said clearance space.

ASHELIN ET AL. disclose a bottom draft plug (seal 94) movably positioned within said clearance space (unnumbered, but space leveler lip 18 is in when vertical) for normally sealing a lower portion of said clearance space and for selectively being displaced from said lower portion for removing debris disposed within said clearance space.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bottom pad assembly of LAYNE in view of ALEXANDER '397 by including a bottom draft plug movably positioned within the clearance space as taught by ASHELIN ET AL. in order to prevent drafts from entering the loading dock area from below the leveler.

Allowable Subject Matter

Claims 10, 20, and 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-4, 6-14 and 16-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Friday, 10:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on (571)-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

^{GAS}
Gay Ann Spahn, Patent Examiner
May 27, 2007

Robert Canfield
Primary Examiner

A handwritten signature in black ink, appearing to be 'RC', written over a horizontal line.